

Pt. 408

48 CFR Ch. 4 (10–1–11 Edition)

provide the written determination required by FAR 7.503(e), when submitting requests for procurement of services.

(b) In the event of a disagreement as to whether the functions to be performed are inherently governmental, the HCA may refer the matter to the Senior Procurement Executive (SPE) for resolution. When submitting disagreements to the SPE for resolution the HCA shall provide a summary of the areas of disagreement, supported by the following:

(1) The HCA's assessment of whether the services are "inherently governmental";

(2) The basis for that assessment (include references to the definition and policy in FAR subpart 7.5 and/or Office of Federal Procurement Policy letter 92–1);

(3) A copy of the statement of work; and,

(4) The requesting activity's written determination in accordance with FAR 7.503(e).

(c) Such disagreements shall be resolved prior to issuance of the solicitation.

[61 FR 53646, Oct. 15, 1996, as amended at 63 FR 26995, May 15, 1998]

PART 408—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 408.4—Federal Supply Schedules

Sec.

408.404 Using schedules.

408.404–3 Requests for waivers.

Subpart 408.7—Acquisition From Nonprofit Agencies Employing People Who Are Blind or Severely Disabled

408.701 Definitions.

408.705 Procedures.

408.705–2 Direct order process.

408.705–3 Allocation process.

408.705–4 Compliance with orders.

408.706 Purchase exemptions.

408.707 Prices.

408.711 Quality complaints.

408.712 Specification changes.

408.714 Communications with the central nonprofit agencies and the Committee.

Subpart 408.8—Acquisition of Printing and Related Supplies

408.802 Policy.

Subpart 408.11—Leasing of Motor Vehicles

408.1103 Contract requirements.

AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

Subpart 408.4—Federal Supply Schedules

408.404 Using schedules.

408.404–3 Requests for waivers.

A copy of the request for a waiver and the approval shall be placed in the contract file to support the acquisition of items off schedule.

Subpart 408.7—Acquisition From Nonprofit Agencies Employing People Who Are Blind or Severely Disabled

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to subpart 408.7 appear at 70 FR 45, Jan. 3, 2005.

408.701 Definitions.

Committee Member is the Presidential appointee representing USDA as a member of the Committee for Purchase from People Who Are Blind or Severely Disabled.

Organization head is the Under Secretary or Assistant Secretary of a mission area or the head of a USDA staff office.

[70 FR 45, Jan. 3, 2005]

408.705 Procedures.

(a) The organization head shall appoint one person as Javits-Wagner-O'Day Act (JWOD) Liaison to represent the organization and to coordinate the organization's actions with the Committee Member.

(b) JWOD advocates may represent more than one organization. Liaisons need not be acquisition officials.

(c) The organization head shall issue and maintain a performance plan to promote and enhance the organization's acquisitions from JWOD participating nonprofit agencies.

(d) The performance plan shall:

Department of Agriculture

408.802

(1) Announce the organization's support for the JWOD Act;

(2) Establish a promotion program for the products and services provided by the JWOD participating nonprofit agencies;

(3) Provide for the JWOD Liaison's role in acquisition planning;

(4) Establish measurable program goals for growth or other accomplishment in the organization's JWOD program actions; and

(5) Establish an awards program for successful participation in the JWOD program.

[61 FR 53646, Oct. 15, 1996, as amended at 70 FR 45, Jan. 3, 2005]

408.705-2 Direct order process.

(a) The chief of a contracting office may apply to a central nonprofit agency for authorization to order specific supplies or services directly from a JWOD participating nonprofit agency.

(b) A copy of the application should be provided to the JWOD Liaison who will inform the USDA Committee Member.

408.705-3 Allocation process.

(a) The chief of a contracting office may apply to a central nonprofit agency for a production allocation of specific supplies or services to a JWOD participating nonprofit agency.

(b) A copy of the application should be provided to the JWOD Liaison who will inform the USDA Committee Member.

408.705-4 Compliance with orders.

Prior to attempting to resolve a failure to perform by a participating nonprofit agency with the Committee, the chief of the contracting office should provide advance notice to the JWOD Liaison who will inform the USDA Committee Member.

408.706 Purchase exemptions.

Prior to applying to the Committee for a purchase exemption, the chief of the contracting office should provide advance notice to the JWOD Liaison who will inform the USDA Committee Member.

408.707 Prices.

Prior to applying for a price revision, the chief of the contracting office should provide advance notice to the JWOD Liaison who will inform the USDA Committee Member.

408.711 Quality complaints.

Prior to attempting to resolve a complaint regarding the quality of goods or services provided by participating nonprofit agency with the Committee, the chief of the contracting office should provide advance notice to the JWOD Liaison who will inform the USDA Committee Member.

408.712 Specification changes.

Prior to providing 90-days advance notification to the Committee on actions that affect supplies and services on the Procurement List, the chief of the contracting office should provide advance notice to the JWOD Liaison who will inform the USDA Committee Member.

408.714 Communications with the central nonprofit agencies and the Committee.

Any matter requiring referral to the Committee shall be provided to the JWOD Liaison who will coordinate the matter with the Committee Member.

Subpart 408.8—Acquisition of Printing and Related Supplies

408.802 Policy.

(a) The Director, Office of Communications (OC) has been designated as the central printing authority in USDA, with the authority to represent the USDA before the Joint Committee on Printing (JCP), the Government Printing Office, and other Federal and State agencies on all matters related to printing.

(b) Prior to contracting for any of the items defined in FAR 8.801, the contracting officer shall verify that the requisite approval has been received by the publication liaison officer or requisitioner.

(c) The approval from OC or the approval authority designated by OC shall be maintained in the contract file.

Subpart 408.11—Leasing of Motor Vehicles

408.1103 Contract requirements.

If the requirement includes the need for the vendor to provide operational maintenance such as fueling, lubrication, or other fluid changes or replenishment, the contracting officer shall include in the contract:

(1) A requirement for the use of fluids and lubricants containing the maximum available amounts of recovered materials, and alternative fuels whenever available; and

(2) A preference for retreaded tires meeting the Federal retread specifications, tires with the maximum recovered material content, or retreading services for the tires on the vehicle.

[70 FR 45, Jan. 3, 2005]

PART 409—CONTRACTOR QUALIFICATIONS

Subpart 409.4—Debarment, Suspension and Ineligibility

Sec.

409.403 Definitions.

409.404 List of parties excluded from Federal procurement and nonprocurement programs.

409.405 Effect of listing.

409.405–1 Continuation of current contracts.

409.405–2 Restrictions on subcontracting.

409.406 Debarment.

409.406–3 Procedures.

409.407 Suspension.

409.407–3 Procedures.

Subpart 409.5—Organizational and Consultant Conflicts of Interest

409.503 Waiver.

AUTHORITY: 40 U.S.C. 121, 41 U.S.C. 421.

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

Subpart 409.4—Debarment, Suspension and Ineligibility

409.403 Definitions.

Debarring official. Pursuant to the Secretary's delegations of authority in 7 CFR 2.24, the Senior Procurement Executive (SPE) is designated as the debarring official (Department Debarring Officer) with the following exceptions:

(a) For commodity contracts awarded on behalf of the Commodity Credit Corporation (CCC), the Executive Vice President, CCC, or his designee is designated as the debarring official pursuant to 7 CFR part 1407.

(b) For contracts awarded under the School Lunch and Surplus Removal Programs (42 U.S.C. 1755 and 7 U.S.C. 612c), the Department Debarring Officer has delegated debarring authority to the Agricultural Marketing Service (AMS).

[63 FR 26995, May 15, 1998]

409.404 List of parties excluded from Federal procurement and nonprocurement programs.

The Department Debarring Officer is USDA's single point of contact with GSA for debarment and suspension actions taken under this subpart. The debarring official for AMS shall notify the Department Debarring Officer of each debarment and suspension action by promptly submitting a copy of the debarment or suspension notice and any later changes to the debarment or suspension status. The Department Debarring Officer will forward a copy of each notice to GSA for inclusion in the Government-wide list.

409.405 Effect of listing.

Compelling reasons are considered to be present where failure to contract with the debarred or suspended contractor would seriously harm the agency's programs and prevent accomplishment of mission requirements. The SPE is authorized to make the determinations under FAR 9.405. Requests for such determinations shall be submitted through the head of the contracting activity (HCA) to the SPE.

409.405–1 Continuation of current contracts.

The HCA is authorized to make the determinations under FAR 9.405–1.

409.405–2 Restrictions on subcontracting.

The HCA is authorized to approve subcontracts with debarred or suspended subcontractors under FAR 9.405–2.